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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

TEXAS NATIONALIST MOVEMENT, et al.,

Plaintiffs.

V.

META PLATFORMS, INC.

Defendant.

Civil Case No.: 3:23-CV-04564-AMO

**JOINT STIPULATION REQUESTING A
STAY IN LIGHT OF GRANT OF
CERTIORARI IN *NETCHOICE LLC v.
PAXTON***

1 All Parties¹ jointly and respectfully request that the Court stay this Action in light of the Supreme
 2 Court's grant of certiorari in *NetChoice, LLC v. Paxton*, No. 22-555. In *NetChoice*, the Supreme Court
 3 will address the constitutionality of Texas House Bill 20—the law under which Plaintiffs are suing. A
 4 stay thus promotes the interests of judicial economy and orderly management of this Action. The Parties'
 5 request is based on the following:

6 WHEREAS, Plaintiffs have filed a complaint against Defendant Meta Platforms, Inc., claiming
 7 that Defendant's alleged moderation of its Facebook service violates House Bill 20. (ECF 3)

8 WHEREAS, Defendant Meta has moved to dismiss the complaint as a matter of law, including on
 9 the ground that House Bill 20 violates the First Amendment. (ECF 15)

10 WHEREAS, the Eastern District of Texas recently transferred this Action to the Northern District
 11 of California without ruling on Defendant Meta's motion to dismiss. (ECF 42)

12 WHEREAS, on September 22, 2023, this Action was assigned to this Court. (ECF 56)

13 WHEREAS, on September 29, 2023, the Supreme Court granted certiorari in *NetChoice* to decide
 14 whether House Bill 20 “compl[ies] with the First Amendment” with respect to its “content-moderation
 15 restrictions” and “individualized-explanation requirements.” *Order List*, 600 U.S. __; *NetChoice, LLC v.*
 16 *Paxton*, No. 22-555, Brief For the U.S. as Amicus Curiae at I (Aug. 14, 2023) (formulating Questions
 17 Presented).

18 WHEREAS, the Parties believe “it is efficient for [this Court's] own docket and the fairest course
 19 for the parties to enter a stay of [the] action” in light of the *NetChoice* “proceedings which bear upon th[is]

20 case.” *Leyva v. Certified Grocers of Cal.*, 593 F.2d 857, 863 (9th Cir. 1979). This Court has the “power
 21 to control its docket and calendar and to provide for a just determination of the cases pending before it.”
 22 *Id.* at 864. A decision to stay should consider “the orderly course of justice measured in terms of the
 23 simplifying or complicating of issues, proof, and questions of law”; “the possible damage which may
 24 result from the granting of a stay”; and “the hardship or inequity which a party may suffer in being required
 25 to go forward.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962); *accord Dean v. LuLaRoe LLC*,
 26 2017 WL 10574353, at *2 (N.D. Cal. July 18, 2017).

27 ¹ The Parties are Plaintiff Texas Nationalist Movement, Plaintiff Daniel Miller, and Defendant Meta
 28 Platforms, Inc.

1 WHEREAS, all factors favor a stay. The pending decision in *NetChoice* will “simplif[y]” the
 2 issues in this case. *U.S. v. Garcia-Gomez*, 2019 WL 331279, at *1-2 (N.D. Cal. Jan. 25, 2019). Indeed,
 3 *NetChoice* could be dispositive of Plaintiffs’ claims under House Bill 20, and at a minimum *NetChoice*
 4 will significantly shape how this Court and the Parties litigate, schedule, and approach this case. Courts
 5 in this circuit often grant stays under similar circumstances. *See, e.g., id.* (“the issues underlying [a] claim
 6 w[ould] likely be simplified by [the] decisions in *Davis* and *Begay*”); *Skulevold v. SD&A Teleservices,*
 7 *Inc.*, 2020 WL 7711834, at *3 (C.D. Cal. Nov. 18, 2020) (“The outcome of *Duguid* will impact the instant
 8 case.”); *Larroque v. First Advantage Lns*, 2016 WL 39787, at *2 (N.D. Cal. Jan. 4, 2016) (“numerous
 9 courts throughout the Ninth Circuit have granted a stay given the grant of certiorari in *Spokeo*”).
 10 Moreover, a stay will not cause “damage” because all Parties agree that a stay is appropriate and the
 11 Supreme Court will likely issue a decision by the end of this Term. *E.g., Garcia-Gomez*, 2019 WL
 12 331279, at *2 (anticipating a decision “within a year or so”); *accord Skulevold*, 2020 WL 7711834, at *4
 13 (“the Supreme Court will rule on *Duguid* in its next term”). And any “possible hardship or inequity”
 14 weighs in favor of a stay, which will “simplif[y] the] legal issues” and inform the scope, focus, and content
 15 of the litigation. *Garcia-Gomez*, 2019 WL 331279, at *3. Simply put, *NetChoice* “will likely provide this
 16 Court with substantial guidance, if not new law, that will materially impact the Court’s decisions in this
 17 matter” and “avoid exhausting judicial resources.” *Skulevold*, 2020 WL 7711834, at *6.

18 WHEREAS, the Parties will alert the Court to developments relevant to the stay, including further
 19 actions by the Supreme Court in *NetChoice*.

20 WHEREFORE, the Parties respectfully request that the Court enter this Stipulation staying this
 21 Action and all pending deadlines as an Order of the Court.

22 IT IS SO STIPULATED this 3rd day of October, 2023.
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1 Respectfully submitted,

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3 s/ Paul M. Davis

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28 **SIGNATURE ATTESTATION**

I, Philip M. Cooper, attest that all signatories listed above, on whose behalf the filing is submitted, concur in the filing's content and have authorized the e-filing of the foregoing document.

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